1946

File No. O Greater Bombay / 46

A **BRANCH**

Subject:— Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945

1/2/47

Opinions under the

File No. O. Greater Bombay / 46

Gen. 194

175 A

C O N T E N T S.

Legal Department File No. O. Greater Bombay 1946

1946

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5 Copies.

NKB 20/7

PHB 20/7

Submitted.

In pursuance of sub-clause (1) of clause 6 of the Drugs Control Order, 1945, Government of India have fixed the fees for licenses to be issued under the order for the coming licensing year 1946-47. Enhanced rates have been fixed for the "City of Bombay and a question has arisen whether fees fixed for the "City of Bombay" will be applicable to additional places now included in the "Greater Bombay". The Addl.D.C.S.(Enforcement)who was consulted by the F.D. (S) has given his opinion in the matter and that may be seen at pp. 9-10/ante. R.L.A. is however requested to advise in the matter.

2. Section 3(1) of the Greater Bombay laws and the Bombay High Court(Declaration of Limits) Act, 1945, extends certain enactments which were in force i the City of Bombay immediately before the commencement of the Act to the Greater Bombay. The expressions "City of Bombay" and "Greater Bombay" have been defined in section 2. Sub-section (2) of section 3 provides that nothing in sub-section (1) shall apply to any provisions made by or under the enactment specified in Schedule B and Schedule C. The Defence o India Act, 1939, is specified in Schedule C and the notification issued by the Central Government is issued in exercise of the powers ultimately derived from the Defence of India Act, 1939. It is thus clear that the fees expressed to be applicable to the "City of Bombay" in the notification will not be applicable to additional places now included in Greater Bombay.

Section 8 of the Act does not appear to be applicable to this case as the expression "City of B'bay" under consideration here is in a notification and not in a Central Act or Regulations to which section 8 in terms applies.

I agree

Reply may be-

"Seen and returned.

The view taken by the Commr. of Excise in para 3 of his letter no. D.C.2/114/45 dt. 15-1-46 is correct."

Id./... 2/2

A.L.R. I agree to the reply suggested by

A.A.S.

Id./... 4/2

R.L.A. Id./... 6/2/46

(As a reminder is received, I have marked it urgent.)

Id./...3/2

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U.R. to F.D.(Supply), No. 1063, dated the 7th February 1946.

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Completed.

Office of the R.L.A.

It appears that on a declaration being made by the District Court Thana, under clause(c) of section 5(1) of the Bombay Court of Wards Act, 1905, that Miss Marie Weir was incapable of managing or unfitted ~~xx~~ to manage her property the Court of Wards with the previous sanction of Government under section 4 assumed in 1922 the management of her property in the Bombay Suburban Dist,, and under section ~~11~~ the Superintendenc of her person also. By virtue of section 4(1) of the Greater Bombay Laws and the Bombay High Court(Declaration of Limits) Act, 1945, the Bombay Court of Wards Act, has ceased to be in force in the areas specified in PartIII of Schedule A to that Act, and part of Miss Marie Weir's property is situated in those areas. Consequently the Collector Bombay Suburban District considers that the Court of War has no power to manage that part of Miss Marie Weir's property and proposes that it should be transferred to the Official Trustee, High Court, for management. The Revenue Department has decided to accept the proposal of the Collector, Bombay Suburban District. and papers are shown to L.D.

The view taken by the Collector, Bombay Suburba District, is not correct. Sub-section (1) of section 4 of the Greater Bombay Laws and the Bombay High Court(Declaration of Limits) Act 1945, provides:

"The enactments mentioned in Schedule D and all notification orders, schemes, rulesforms and ~~xxxxxx~~ by-laws made, issued or prescribed thereunder shall cease to apply to or to be in force in, the area, specified in part II of Schedule A"

Sub-section (2) provides:

"Nothing in sub-section (1) shall affect-
(a) or
(b) the operation of any such enactment notification order scheme, rule form or by-law before the commencement of the ~~xxxx~~ Act; or
(c) any right privilege abligation liability acquiried, accrued or incurred under any such enactment, notification, order, scheme rule form or by-law before the commencement of this Act.

It is clear from these provisions that although the Bombay Court of Wards Act, one of the enactments mentioned in Schedule D, has ceased to apply to the areas specified in Part II of Schedule A the Orders passed under the Bombay Court of Wards Act will still be operative in those areas in respect of what has been done before the commencement of the Greater Bombay Laws and the Bombay High Court(Declaration of Limits) Act, 1945. The management of the property of Miss Marie Weir in the present case was assumed under the orders of Government long before the commencement of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits)Act. Consequently the management of that property is saved by sub-section (2) of section 4 and there will be no legal objection to the Collector of Bombay Suburban District continuing the management under the Bombay Court of Wards Act.

Id./.... 16/3/46

Remembrancer of Legal Affairs.

U.R. to R.D., No. 2133 dated the 16th March 1946.

SMR 10-7-56
4 Copies.

It is true that by virtue of sub-section (1) of section 4 of the Greater Bombay Laws and the Bombay High Court(Declaration of Limits)Act, 1945, the Rules for Licensing and Controlling Theatres and other places of Public Amusement under the Bombay District Police Act, 1890,have ceased to apply or to be in force in the areas specified in Part II of Schedule A to that Act; but it is open to the competent authority to direct under sub-section (2) that those Rules should apply to or be in force in those areas or any part thereof. It is presumed that no such direction has been issued. If so, those Rules have ceased to apply to or to be in force in those areas and the Rules for places of Public Amusement inthe City of Bombay, 1914 which have come into force therein, require to be suitably amended.

Id./P.N.M.
Remembrancer of Legal Affairs.

U.R. to H.D.(Poll)No. 2252 dated the 23rd March 1946.

SMR 10-7-56
4 Copies.